

# Washington Law Review

---

Volume 12 | Number 2

---

4-1-1937

## What Lawyers Think of the President's Court Proposal

anon

Follow this and additional works at: <https://digitalcommons.law.uw.edu/wlr>



Part of the [Supreme Court of the United States Commons](#)

---

### Recommended Citation

anon, State Bar Journal, *What Lawyers Think of the President's Court Proposal*, 12 Wash. L. Rev. & St. B.J. 162 (1937).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol12/iss2/8>

This State Bar Journal is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review by an authorized editor of UW Law Digital Commons. For more information, please contact [cnyberg@uw.edu](mailto:cnyberg@uw.edu).

## What Lawyers Think of the President's Court Proposal

The American Bar Association has announced that in every one of the forty-eight States and the District of Columbia, the members of the Association participating in its recent poll voted disapproval of an increase in the number of Justices of the Supreme Court of the United States on the basis recommended by the President of the United States in his message of February 5, 1937. Members of the Association throughout the United States voted by secret ballot by mail, upon the various proposals affecting the Federal Judiciary, four of which were approved by a majority of the members voting; but according to the announcement by the Chairman of the Association's Board of Elections, Justice Edward T. Fairchild of the Supreme Court of Wisconsin, the proposed increase of the Supreme Court did not obtain a majority of the votes cast by Association members in any State. The Association has further announced that in order that the views of the whole legal profession upon these proposals may be ascertained and made known, the Association is now conducting a poll of the 126,000 known lawyers who are not members of the Association.

The highest ratio against the increase in membership was in the States of Maine, Nebraska, South Dakota, and Vermont, where the ratio was more than fourteen to one. The poll least unfavorable to the proposal as to the Supreme Court was in the States of Florida and Mississippi, the District of Columbia, and the Territorial group, where the increase in the Court was disapproved by votes, varying from about four to one to three to one. In Florida the increase was disapproved by a vote of slightly less than three to one. The result of all voting was more than six to one against this Presidential proposal.

Ballots from members of the Junior Bar Conference, composed of lawyers under thirty-six years of age, were counted separately but included in the totals. The younger lawyers voted in every State against the proposed increase in the Supreme Court, with the exception of Wyoming, where the four ballots cast were three to one in favor. In two states, namely, New Mexico and North Dakota, the juniors' 18 votes were unanimous against the proposed increase. The total vote of the younger lawyers was 506 in favor of the proposed increase in the Supreme Court and 2113 in opposition to the increase, with 6 ballots not voting on this question, or defective. On the proposed increase in the Supreme Court, the young lawyers voted over four to one against, while the seniors voted almost seven to one against.

The proposed increase in the number of judges of the Circuit Courts, District Courts, and other Courts of the United States, was also voted on by the members of the Association. This proposal was also disapproved in every State, by a majority of those voting. The total vote was 4048 in favor of the increase in those Courts and 14,401 in opposition, with 317 ballots not voting on this question or defective.

At the same time, the Association members voted approval, by varying majorities, of four proposals made by the President of the United States for changes in existing laws affecting the Federal Courts. The proposal empowering the Chief Justice of the Supreme Court to assign Circuit Judges and District Judges to judicial duties outside their circuits and districts was approved by a vote of 11,462 to 6,837, with 467 ballots not voting on this question or defective. The proposal that the Supreme Court be authorized to appoint an administrative officer to be known as proctor, with supervisory duties as to calendars of the Courts below the Supreme Court, was approved by a vote of 10,707 to 7,414, with 545 ballots not voting on this question or defective. The proposal that the Attorney-General of the United States be given the right to intervene and to present testimony and be heard, as a party, in suits involving the constitutionality of Federal statutes, was approved by a vote of 10,637 to 7,613, with 516 ballots not voting on this question or defective. The proposal that a right of direct summary appeal from the District Courts to the Supreme Court in constitutional cases should be given the Attorney-General of the United States, without provision giving a like right to other parties to such a suit, was approved by a vote of 11,397 to 6,852 with 517 ballots not voting on this question or defective. Petitions for certiorari for direct review in constitutional cases may now be filed with the Supreme Court by the Attorney-General or by any party to the suit, upon a showing that the public interest will be served by such a speedy review.

At the time the Association instituted its referendum, the Sumners Bill, to permit Justices of the Supreme Court to retire on the same basis permitted to Circuit and District Judges, was pending before Congress. As announced by Judge Fairchild as Chairman of the Board of Elections, the vote of the Association members upon the Sumners Bill was 14,482 in favor and 3,419 in opposition, with 865 ballots not voting on this question or defective. The Sumners Bill has since become law.

Returns from polls taken by the State Bar Association and the Seattle Bar Association show substantially the same percentage of lawyers opposed to the President's Supreme Court proposal as in the case of the nation-wide poll of the membership of the American Bar Association. The State vote showed 1601 lawyers against the proposal, and 370 in favor; the Seattle vote was 512 against, and 89 in favor.